

William C. Lee, Judge
United States District Court

INTRODUCTORY

COURT'S INSTRUCTION NO. _____

Members of the jury: the evidence and arguments in this case have been completed, and I will now instruct you as to the law applicable to this case. It is your duty to follow all of the instructions.

You must not question any rule of law stated by me in these instructions. Regardless of any opinion you may have as to what the law ought to be, you must base your verdict upon the law given by me.

It is your duty to determine the facts from the evidence in this case. You are to apply the law given to you in these instructions to the facts and in this way decide the case.

COURT'S INSTRUCTION NO. _____

Neither by these instructions, nor by any ruling or remark which I have made, do I mean to indicate any opinion as to the facts or as to what your verdict should be. You are the sole and exclusive judges of the facts.

COURT'S INSTRUCTION NO. _____

You were accepted as jurors on the basis of the answers you made when you were questioned as to your qualifications. That answers you then made to questions in regard to your competency, qualifications, fairness, lack of prejudice and freedom from passion and sympathy are as binding on you now as they were then and should remain so until you are finally discharged from further consideration of this case.

COURT'S INSTRUCTION NO. _____

Opening statements of counsel are for the purpose of acquainting you in advance with the facts counsel expect the evidence to show. Closing arguments of counsel are for the purpose of discussing the evidence.

Opening statements, closing arguments and other statements of counsel should be disregarded to the extent they are not supported by the evidence.

During the course of the trial it often becomes the duty of counsel to make objections and for me to rule on them in accordance with the law. The fact that counsel made objections should not influence you in any way.

COURT'S INSTRUCTION NO. _____

The evidence consists of the sworn testimony of the witnesses, the exhibits received in evidence, and stipulated, admitted [or judicially noticed facts].

A stipulation is an agreed statement of facts between the parties, and you should regard agreed statements as true.

[I have taken judicial notice of certain facts which I regard as matters of common knowledge. You may, but are not required to accept those facts as proved].

You should consider only the evidence received in this case and should consider this evidence in the light of your own observations and experiences in life. You may draw reasonable inferences as you believe to be justified from proved facts.

You are to disregard any evidence to which I sustained an objection or which I ordered stricken. Anything you may have seen or heard about this case outside the courtroom is not evidence and must be entirely disregarded.

You should not be influenced by sympathy, prejudice, fear or public opinion. You should decide this case solely on the evidence presented here in the courtroom. [Disregard any press, television or radio reports which you may have read, seen or heard. Such reports are not evidence; therefore, you must not be influenced in any manner whatever by such publicity.]

COURT'S INSTRUCTION NO. ____

There are two types of evidence: direct and circumstantial. Direct evidence is the testimony of a person who claims to have personal knowledge of the commission of the crime which has been charged, such as an eyewitness. Circumstantial evidence is the proof of a chain of facts and circumstances which tend to show whether the defendant is guilty or not guilty. The law makes no distinction between the weight to be given either direct or circumstantial evidence. Therefore, all of the evidence in the case, including the circumstantial evidence, should be considered by you in arriving at your verdict.

COURT'S INSTRUCTION NO. ____

You are the sole judges of the credibility of the witnesses, and of the weight to be given to the testimony of each of them. In considering the testimony of any witness, you may take into account their intelligence, ability and opportunity to observe, age, memory, their manner while testifying, any interest, bias or prejudice they may have and the reasonableness of their testimony considered in the light of all the evidence in this case.

You should judge the defendant's testimony in the same manner as you judge the testimony of any other witness.

COURT'S INSTRUCTION NO. ____

You are not obliged to accept testimony though the testimony is uncontradicted and the witness is not impeached. You may decide, because of the witness' bearing and demeanor, or because of the inherent improbability of his testimony, or for reasons sufficient to you, that such testimony is not worthy of belief.

COURT'S INSTRUCTION NO. ____

You are the exclusive judges of the weight of the evidence. It is your duty to consider all of the evidence and determine what facts have been proven or not proven. If you meet with conflicts in the evidence, you should, if you can reasonably and fairly do so, reconcile the conflicts so as to believe all of the evidence. If you cannot so reconcile the evidence, you then have the right to believe that which you think most worthy of credit and disregard that which cannot be reasonably and fairly reconciled therewith.

COURT'S INSTRUCTION NO. ____

In determining the weight to give to the testimony of a witness, you should ask yourself whether there was evidence tending to prove that the witness testified falsely about some important fact or, whether there was evidence that at some other time the witness said or did something, or failed to say or do something that was different from the testimony he gave at the trial.

COURT'S INSTRUCTION NO. ____

The weight to be given to any particular evidence is not necessarily determined by the number of witnesses testifying on behalf of each side. You are to consider all the evidence in the case in determining the credibility of witnesses. You may find that the testimony of a smaller number of witnesses for one side is more credible than the testimony of a greater number of witnesses for the other side.

COURT'S INSTRUCTION NO. ____

The defendant is presumed to be innocent of the charges. This presumption remains with the defendant through every stage of the trial and during the deliberations on the verdict and is not overcome unless from all the evidence in the case you are convinced beyond a reasonable doubt that the defendant is guilty.

The government has the burden of proving the guilt of the defendant beyond a reasonable doubt, and this burden remains on the government throughout the case. The defendant is not required to prove his innocence or to produce any evidence.

COURT'S INSTRUCTION NO. ____

You have heard testimony from witnesses that have received benefits from the government in connection with this case.

You may give their testimony such weight as you feel it deserves, keeping in mind that it must be considered with caution and great care.

The guilty pleas of these witnesses should not be considered as evidence against the defendant.

COURT'S INSTRUCTION NO. ____

You have heard testimony of expert witnesses. This testimony is admissible where the subject matter involved requires knowledge, special duty, training, or skill not within ordinary experience, and the witness is qualified to give an expert opinion.

However, the fact that an expert has given an opinion does not mean that it is binding upon you or that you are obligated to accept the expert's opinion as to the facts. You should assess the weight to be given to the expert opinion in the light of all the evidence in this case.

COURT'S INSTRUCTION NO. ____

The indictment in a criminal case is the formal method of accusing a defendant of a crime or crimes and placing a defendant on trial. It is not evidence against a defendant and does not create any inference of guilt.

COURT'S INSTRUCTION NO. _____

When the word "knowingly" is used in these instructions, it means that the defendant realized what he was doing and was aware of the nature of his conduct, and did not act through ignorance, mistake or accident. Knowledge may be proved by the defendant's conduct, and by all the facts and circumstances surrounding the case.

COURT'S INSTRUCTION NO. _____

You may judge the Defendant only on the charges alleged in the indictment. You may not convict him of any other alleged conspiracy in the event you should conclude that he may have engaged in some other conspiracy. Therefore, if you are not convinced beyond a reasonable doubt that the Defendant knowingly and intentionally joined the conspiracy alleged in the indictment, you must find the Defendant not guilty.

CLOSING

COURT'S INSTRUCTION NO. _____

The matter of the punishment to be imposed if you find the defendant guilty is not before you, the jury, but is a matter for the court to determine. The only matter before you is the question of whether the defendant is guilty or innocent of the crimes as charged.

COURT'S INSTRUCTION NO. _____

When you go to the jury room to begin considering the evidence in this case, you will first select one of your members to act as your foreperson. He or she will help to guide your discussions in the jury room and will be your spokesperson here in court.

Forms of verdict have been prepared for you. Take these forms to the jury room and when you have reached unanimous agreement on the verdicts, have the foreperson date and sign the appropriate form of verdict, and notify the Deputy Clerk in whose charge you will be. The verdict forms are mutually exclusive; that is, regardless of the decision you reach on each charge, you may only use one of the forms of verdict prepared for your convenience.

COURT'S INSTRUCTION NO. _____

The verdicts must represent the considered judgment of each juror. Your verdicts, whether they be guilty or not guilty, must be unanimous.

You should make every reasonable effort to reach a verdict as to each defendant. In doing so, you should consult with one another, express your own views, and listen to the opinions of your fellow jurors. Discuss your differences with an open mind. Do not hesitate to re-examine your own views and change your opinion if you come to believe it is wrong. But you should not surrender your honest beliefs about the weight or effect of evidence solely because of the opinion of your fellow jurors or for the purpose of returning an unanimous verdict.

You should give fair and equal consideration to all the evidence and deliberate with the goal of reaching an agreement which is consistent with the individual judgment of each juror.

You are impartial judges of the facts. Your sole interest is to determine whether the government has proved its case beyond a reasonable doubt.

COURT'S INSTRUCTION NO. _____

It is necessary from this time until you are discharged to remain together in a body and in the charge of the officer who will be sworn to attend you. You are not, during your deliberations, to communicate with anyone other than this jury and the officer until you are discharged.

COURT'S INSTRUCTION NO. _____

These instructions are all in writing and I will send them to the jury room for your use. You will also be permitted to take the exhibits with you to use in your deliberations.